

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

WALLACE DWAYNE PETERSON, JR.

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:20-cv-216-HSO-BWR

**PEARL RIVER COUNTY, MISSISSIPPI; and
SHANE EDGAR, Individually**

DEFENDANTS

**SHANE EDGAR'S MOTION FOR SUMMARY
JUDGMENT BASED ON QUALIFIED IMMUNITY**

Comes now, Shane Edgar ("Captain Edgar"), by and through counsel, and, pursuant to Rule 56 of the Federal Rules of Civil Procedure, respectfully files his Motion for Summary Judgment based on Qualified Immunity.

In support of the same, Captain Edgar, as required by Rule 7(b)(4) of the Local Uniform Civil Rules of the United States District Courts for the Northern and Southern Districts of Mississippi, is simultaneously filing a memorandum brief setting forth arguments and authorities related to the following grounds for this Court to dismiss Plaintiff's First Amended Complaint:

1. This matter is presently before the Court by virtue of Plaintiff's First Amended Complaint [44], which he filed on October 7, 2022, and wherein he raised two (2) claims against Captain Edgar in his individual capacity: (a) unreasonable seizure, and (b) excessive force.

2. The Court must dismiss Plaintiff's unreasonable seizure claim against Captain Edgar as he had probable cause to arrest Plaintiff on August 23, 2019.

3. The Court must dismiss Plaintiff's unreasonable seizure claim against Captain Edgar as Captain Edgar's decision to subdue and handcuff Plaintiff was reasonable under the circumstances Captain Edgar perceived as they occurred in real time.

4. The Court must dismiss Plaintiff's unreasonable seizure claim against Captain Edgar as every reasonable officer would not understand that Captain Edgar's actions violated the law under the circumstances Captain Edgar faced.

5. The Court must dismiss Plaintiff's unreasonable seizure claim against Captain Edgar as Plaintiff cannot demonstrate that Captain Edgar's conduct violated clearly established law.

6. The Court must dismiss Plaintiff's excessive force claim against Captain Edgar as any force used by Captain Edgar to effectuate Plaintiff's arrest was objectively reasonable in light of the circumstances, and was not excessive to the need of said force.

7. The Court must dismiss Plaintiff's excessive force claim against Captain Edgar as Plaintiff's First Amended Complaint lacks specific, non-speculative evidence to support Plaintiff's allegations.

8. The Court must dismiss Plaintiff's excessive force claim against Captain Edgar as Plaintiff cannot demonstrate that his alleged injuries resulted directly and only from a use of force that was excessive to the need.

9. The Court must dismiss Plaintiff's excessive force claim against Captain Edgar as he is entitled to qualified immunity with respect to the same, and Plaintiff's allegations, especially in light of the previous depositions taken in this matter, are

insufficient to allow this Court to draw a reasonable inference that Captain Edgar is liable for the harm Plaintiff has alleged, nor are they specific enough to defeat Captain Edgar's qualified immunity defense.

10. The Court must dismiss Plaintiff's claims against Captain Edgar as they altogether fail to state claims upon which relief may be granted.

WHEREFORE, PREMISES CONSIDERED, based upon the grounds above, which are set forth in greater detail within Captain Shane Edgar's supporting Memorandum of Authorities, Captain Edgar respectfully requests this Court to dismiss Plaintiff's claims against him with prejudice.

DATE: December 2, 2022

Respectfully submitted,

SHANE EDGAR

BY: /s/Lance W. Martin
One of His Attorneys

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CERTIFICATE

I, the undersigned, of Allen, Allen, Breeland & Allen, PLLC, hereby certify that on this day, I electronically filed the foregoing Motion for Summary Judgment based on Qualified Immunity with the Clerk of the Court using the ECF system, which shall give notice to:

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This, the 2d day of December, 2022.

/s/ Lance W. Martin
OF COUNSEL